IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 7722 of 2003

Between:

1. Sri Seera Kannam Naidu, S/o. late Appadu, 58 years
2. Smt. Seera Lakshmi, W/o. Kannamanaidu, 50 years
3. Sri Seera Ganapathi Naidu, S/o. Kannamnaidu, 29 years
4. Sri Seera Sudhakar Naidu, S/o. Kannamnaidu, 20 years
5. Ms. Seera Santhoshi, D/o. Kannam Naidu, 15 years

   Being minor rep. by her father and natural guardian the 1st petitioner.
6. Sri Botta Bhaskara Rao, S/o. late Sanyasayya, 39 years

   All are residents of Contonment, Vizianagaram.

..... PETITIONERS

AND

1. The Assistant Commissioner, Endowments Department, Vizianagaram.
2. The Executive Officer, Group Temples, Vizianagaram.
3. The Revenue Divisional Officer, Vizianagaram.
4. The Mandal Revenue Officer, Vizianagaram Mandal, Vizianagaram.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction, declaring the proceedings Rc.No.3039/02/A, Dt. 22.04.2003 of the 3rd respondent and the 1st respondent's proceedings Rc.No.A1/3785/2000, Dt.31.07.2002 holding that the land in an extent of Ac.21.33 cents situated in T.S.No.36, M.N. Ward of Kothapeta,

Vizianagaram belongs to the Govt. , without deciding the title rights by the competent civil Court as arbitrary, illegal, null and void and is against the principles of natural justice and norms of the public policy.

Counsel for the Petitioners: MR.VENKATESWARA RAO GUDAPATI

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court made the following ORDER:

Heard both sides and at their request, the main writ petition itself is taken up for disposal.

The petitioners, who are claiming to be the owners of land in an extent of Ac.21.33 cents, situated in T.S.No.36, M.N.Ward of Kothapeta, Vizianagaram, filed this writ petition challenging the impugned proceedings dated 22.04.2003 passed by third respondent, cancelling the patta granted in their favour.

The case of the petitioners is that primarily the impugned order is issued without giving any notice and opportunity to them. Further, they claim title over the property in question under various sale deeds even of the year 1926. Further, it is their complaint that they are not the parties to the proceedings, as referred to in O.S.No.6 of 1951, which is a suit filed under Section 92 of the C.P.C. Therefore, the entire action on the part of the respondents, without considering the petitioners' legitimate right and entitlement, is wholly unsustainable.

In the counter-affidavit filed on behalf of the respondents it is submitted that the impugned order is passed on the representation made by the Endowments Department and they based on the judgment passed by the District Judge, Visakhapatnam in O.S.No.6 of 1951. Therefore, the petitioners cannot make any complaint and they do not have any right over the land, which belongs to the Choultry.

On perusal of the material available on record, it is seen that the impugned order dated 22.04.2003 is passed without giving any prior notice and opportunity to the petitioners. Further, having regard to the fact that the petitioners claimed title over the land in question dates back in the year 1926, in pursuance of the registered sale deeds, it cannot be said that the petitioners are not parties to the suit field under

Section 92 of the C.P.C. Having regard to the same, it is necessary for providing opportunity to the petitioners for proper reply before rejecting the same.

In the circumstances, the writ petition is accordingly allowed and the impugned order dated 22.04.2003 is set aside. The third respondent is directed to pass fresh orders after giving notice and opportunity to the petitioners in accordance with law. No costs.

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B.Prakash Rao, J

Date: 25.10.2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, the twenty fifth day of October, Two Thousand and Four.

To

1. The Assistant Commissioner, Endowments Department, Vizianagaram.
2. The Executive Officer, Group Temples, Vizianagaram.
3. The Revenue Divisional Officer, Vizianagaram.
4. The Mandal Revenue Officer, Vizianagaram Mandal, Vizianagaram.
5. Two CCs to G.P. for Endowments, High Court of A.P. Buildings, Hyderabad (OUT)
6. Two CD Copies